

# ***NCLB* UPDATE from the California Department of Education August 28, 2002**

As you know, the *No Child Left Behind* (NCLB) Act was signed into law on January 8, 2002. Since that time, we have updated you on the regulations, guidance, and other information received from the U.S. Department of Education (USDE), in order to assist you in the implementation of NCLB. The information below reflects the latest information, including regulations proposed by the USDE on August 6 of this year that would impact implementation of Adequate Yearly Progress (AYP), teacher and paraprofessional goals, school improvement, public school choice, support services, and a number of other Title I issues. We will continue to keep you apprised as we receive further information.

## **Title I Part A**

### **1. PROGRAM IMPROVEMENT (PI) Title I, Part A, Section 1116(3)**

In a "Dear Colleague" letter from U. S. Secretary of Education Rod Paige, dated August 16, 2002, Secretary Paige provided additional guidance to states that will not receive their 2001-02 school year assessment data until after the start of the 2002-03 school year. (A copy of the Secretary's letter is attached at the end of this bulletin.) As you probably know, California is one of seventeen states in this situation; CDE will calculate and publish the 2002 Academic Performance Index (API) for all schools in October 2002.

Please note the following guidance from Secretary Paige: If the 2001-02 assessment results indicate that a school has made AYP for the *second consecutive* year, the school may be taken out of improvement status, and that school would not be required to offer choice or supplemental services. If the 2001-02 assessment results indicate that the school has *not* made AYP for the second consecutive year, the school must remain in improvement status. The school must offer supplemental services immediately and to offer choice as soon as possible, *but no later than* the beginning of the next term during the 2002-03 school year.

In light of Secretary Paige's letter, this means that:

- If a Program Improvement school made its growth target on the 2001 API and meets its growth target on the 2002 API, then that school will be out of PI status.
- If a PI school did not meet its growth target on the 2001 API, then that school must immediately offer choice and must offer supplemental services to eligible students.

## **PI Targeted Assistance Schools in Deciles 6-10 that Met the 2001 API Growth Target for the Socio-economically Disadvantaged (SED) Student Subgroup**

Federal law allows the state to only consider the progress of Title I students eligible for services or receiving services in a targeted assistance school for the purposes of identification or exit of a Title I school for Program Improvement. PI targeted assistance schools that met the API growth target for SED students in 2001 can exit PI status if the SED students meet the 2002 API growth target. Districts may calculate the API growth for 2002 by using the formula posted at: <http://www.cde.ca.gov/psaa/api/api0102/base/Astpk01b.htm>

(To mitigate any confusion, we point out that the calculation of the 2001 Base is the same calculation for the 2002 Growth.)

Further, districts must notify parents once the 2001-02 data are received and information is known as to the status of the school in need of improvement. This guidance applies only to the 2002-03 school year.

## **2. SUPPLEMENTAL SERVICES**

### **Identification and Approval of Providers**

Supplemental services providers may include: school entities (public or private), institutions of higher education (public or private), non-profit or for-profit organizations, faith-based and community-based private schools, LEAs that have not been identified for improvement, individuals or groups of individuals that organize into non-profits, and distance-learning providers (particularly encouraged for rural areas with limited options). Public charter schools receiving Title I funds are also responsible for providing supplemental services, just as other public schools.

In order for local education agencies (LEAs) to provide supplemental services, they must apply and be approved by the SBE. *Contrary to information provided in an earlier letter from CDE (July 5, 2002), the originally planned, two-tiered application process has been replaced with a continuous application process for this first year, to facilitate LEAs and others in becoming supplemental education services providers.* The application forms are posted at <http://www.cde.ca.gov/iasa/titleone/pi/supservltr.html>

With this continuous application process, approved providers could be added monthly, if approved by the SBE. The list will be formally updated in June of each year. The current list of approved providers may be viewed at <http://www.cde.ca.gov/iasa/titleone/pi/ssproviders.html> We hope that over 60 additional providers will be added as a result of the September 11-12 SBE meeting.

The state is required to identify organizations both public and private, including faith-based organizations (FBOs), as service providers if the organization meets the selection requirements. FBOs become providers on the same basis as other providers. Regardless of the identity of a provider, districts must ensure that the instruction and content are secular, neutral, and non-

ideological. FBOs must comply with generally applicable cost accounting requirements and should keep federal funds in a separate account to ensure that the funds are not used inappropriately. Two circulars issued by the federal Office of Management and Budget (OMB)—A-21 (for educational institutions) and A-122 (for non-profit organizations)—provide guidance regarding appropriate accounting practices; these may be viewed at the OMB’s Web site: <http://www.whitehouse.gov/omb/circulars/index-education.html>

CDE has widely distributed the information on applying to be a supplemental services provider, in writing and on the web, to FBOs, county and district superintendents and other eligible entities.

### **Provision of Services for Eligible (low-income) Students**

Supplemental services may be conducted before or after school, on weekends, or during the summer. If a district is unable to serve all eligible students it must give priority to “low-income students who are the lowest achieving.” Supplemental service providers are *not* required to hire only teachers and paraprofessionals that meet the professional qualification requirements of Section 1119 of *NCLB*. This reflects the flexibility that the United States Department of Education (USDE) encourages in the arena of supplemental services. A supplemental service provider may not, on the basis of disability, exclude a qualified student with disabilities or a student covered under Section 504 if the student can, with minor adjustments, be provided supplemental services.

### **Use of Funding to Transport Students to Supplemental Educational Services**

An LEA may use Title I funds as well as other federal, state, and local resources to pay for supplemental educational services. The latest proposed regulations and guidance for supplemental services states that the LEA may—but is not required to—use the funds to provide transportation to service providers. However, in meeting the requirement in the law to spend at least 5 percent of their total Title I, Part A allocation on supplemental services, districts may *not* include costs for transportation or administration.

### **District Waiver to Provide Supplemental Educational Services**

In accordance with Section 1116(e)(10)(A), a district may submit to the SBE a request to waive the requirement to provide supplemental services. The CDE Waiver Office has developed a waiver form and a “Special Calendar” for submission of these Supplemental Educational Services Waivers. *Contrary to an earlier letter from CDE (July 5, 2002)*, waivers may also be submitted at any time for processing at the next scheduled SBE meeting. However, the waivers will only be granted for a maximum of one year and will be terminated in June of each school year when the official Supplemental Education Services Provider list is “updated” for the next school year.

The SBE also will be approving a Waiver Policy and criteria for this waiver, which will be posted on the Intranet after approval. All information on these waivers is available at

<http://www.cde.ca.gov/waiver/index.html>

The Waiver Office may be reached by phone at (916) 319-0824.

## **Collective Bargaining Agreements**

Many districts are contemplating difficulties in implementing supplemental services provisions because the requirements in *NCLB* may be at odds with collective bargaining agreements. The *NCLB* specifically provides that the supplemental services provisions do not “operate to invalidate employee protections that exist under current law and collective bargaining agreements and similar labor agreements.” However, collective bargaining agreements do not create an exemption from supplemental service requirements.

### **3. “HIGHLY QUALIFIED TEACHER”**

#### **Title I Part A, Section 1119 (a)(1)**

Title I of *NCLB* requires that teachers of core academic subjects hired after the first day of instruction of the 2002-03 school year and teaching in a program supported with Title I Part A funds must be “highly qualified” when they are hired (Section 1119 (a) (1)). All teachers teaching in core academic subjects (i.e., English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography), irrespective of funding source, are required to be “highly qualified” no later than the end of the 2005-2006 school year.

As you probably are aware, a great deal of controversy has arisen recently regarding California’s definition of “highly qualified teacher.” As of the date of this letter, the USDE has not issued an official opinion regarding the validity of the definition. Thus, what follows is subject to revision.

On May 30, 2002, the SBE approved the following definition:

“In order to be recognized as a “highly qualified teacher” in California all of the following requirements must be met:

- Possession of a Baccalaureate Degree from a regionally accredited institution of higher education; and
- Successful passage of California’s state test of reading, writing and mathematics, unless otherwise specified in the California Education Code; and
- Demonstrated competence of the subject or subjects to be taught as measured by successful passage of the State-approved subject matter examination(s) aligned with the SBE-approved student content standards or successful completion of 18 units of university coursework (or the equivalent) in the subject or subjects to be taught, that has met state standards adopted by the California Commission on Teacher Credentialing and that is aligned with the SBE-approved student content

- standards, or teachers serving on teaching assignment options specified in the California Education Code; and
- Orientation to the subject(s) and grade levels to be taught.”

California recognizes that being highly qualified is a minimum standard for teachers and will encourage its LEAs and professional associations to embody the values of teaching excellence and continued professional growth. In fact, the recently published draft Title I regulations include language that would cover teachers who are employed and enrolled in alternate routes to certification. The draft regulations are posted at the following federal Web site:  
<http://www.ed.gov/legislation/FedRegister/proprule/2002-3/080602a.html>

For additional information about teacher qualifications and professional development, please see Title II, Part A, Non-Regulatory Draft Guidance, posted at:  
<http://www.ed.gov/offices/OESE/SIP/TitleIguidance2002.doc>

For questions regarding highly qualified teachers, please contact the State Board of Education at (916) 319-0827.

**NOTE: PARENT’S RIGHT TO KNOW and NOTIFICATION FROM DISTRICT (Title I, Part A, Section 1111)**

Districts are reminded that they must provide timely notice to each individual parent if their child has been assigned or has been taught for four or more consecutive weeks by a teacher who is not highly qualified. For a list of all parent notification requirements please see the May 30 letter and the attachment to the April 11, 2002, letter at the CDE Web site at:  
<http://www.cde.ca.gov/pr/nclb>

## **4. PARAPROFESSIONAL REQUIREMENTS**

### **Title I Part A, Section 1119 (c)**

The California Department of Education has received numerous requests for clarification on the new requirements for paraprofessionals, and this section is intended to provide that clarification.

Section 1119 (c) of *NCLB*: New Paraprofessionals:

- (1) Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after the date of enactment of the *No Child Left Behind Act of 2001 (January 8, 2002)* and working in a program supported with funds under this part shall have--
  - (A) Completed at least two years of study at an institution of higher education; **OR**
  - (B) Obtained an associate’s (or higher) degree; **OR**
  - (C) Met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment--
    - (i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
    - (ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

Paraprofessionals hired before the date of enactment of NCLB have until January 8, 2006 to satisfy these requirements. However, regardless of hiring date, all paraprofessionals working in a program supported with Title I, Part A funds must have earned a high school diploma or its recognized equivalent. It is on this point that the federal law provides an important clarification: “The receipt of a secondary school diploma (or its recognized equivalent) *shall be necessary but not sufficient* to satisfy the requirements of (1)(C).” (Italics added.)

At this time, the state does not plan to develop a formal state assessment for paraprofessionals. Any formal assessment selected or developed by a district should, in that district’s judgment, demonstrate that the paraprofessional has met a rigorous standard of quality, and has the knowledge of and ability to assist in instruction, as stated above. Basic skills assessments, which test only content knowledge, but not the knowledge of and ability to assist in instruction, would not be sufficient to meet the requirement.

The recently released Title I draft regulations have clarified that these requirements would affect all core academic classes in a schoolwide program and paraprofessionals paid with Title I, Part A funds in targeted assistance programs. The law exempts paraprofessionals who are employed *primarily* to provide translation services or *solely* to provide parent involvement activities. In addition, the term *para-professional* does not include individuals whose duties are limited to clerical functions, computer support, personal care, or other non-instructional duties. The CDE is requesting additional guidance from the USDE regarding the qualifications of paraprofessionals who provide services to students with special needs.

We will continue to clarify and update any information regarding paraprofessionals and other *NCLB* topics as it becomes available. For questions regarding paraprofessionals, please contact Penni Hansen, Consultant, Curriculum Leadership Office, by e-mail at [phansen@cde.ca.gov](mailto:phansen@cde.ca.gov) or by telephone at (916) 323-5472.

## **5. THE LOCAL EDUCATION AGENCY PLAN (LEAP)**

### **Title I, Part A, Section 1112**

CDE is developing a format for the *NCLB* Local Educational Agency Plan (LEAP), formerly known as the Local Improvement Plan (LIP). The LEAP, due to CDE in May, 2003, will include descriptions of how the LEA coordinates Title I Part A with other programs such as the Individuals with Disabilities Education Act (IDEA), Title II, Even Start, Head Start, Reading First, Early Reading First, Perkins, migrant education, homeless, English learners, and existing state programs.

**Title I, Part B**  
**READING FIRST**

On August 23 U. S. Secretary of Education Rod Paige notified CDE that California will receive nearly \$133 million for Reading First to help schools and school districts improve students' reading achievement using scientifically proven methods of instruction. This means that California stands to receive a grand total of \$971 million over six years, provided that the state demonstrates successful implementation and that Congress maintains the appropriations. In addition to scientifically proven instructional methods, the grant emphasizes screening and diagnosis of reading difficulties, monitoring of student progress, and thorough, high-quality professional development for teachers.

California will be working to build a statewide infrastructure to guide reform and assist school districts that are funded under a state-run competition for sub-grants. California's State Plan for Reading First, approved by the SBE and the USDE, establishes certain criteria for eligibility—for both districts and schools—in order to apply for a grant. A list of eligible districts is being prepared and is expected to be posted on the CDE Web site by mid-September. CDE will apprise schools of Reading First developments in future communications.

**Title I, Part B**  
**EVEN START**

No changes to the program are expected at this time.

**Title I, Part C**  
**MIGRANT EDUCATION**

No changes to the program are expected at this time.

**Title I, Part D**  
**NEGLECTED OR DELINQUENT**

No changes to the program are expected at this time.

**Title I, Part F**  
**COMPREHENSIVE SCHOOL REFORM**

Work is underway in developing a request for applications (RFA) and procurement for Comprehensive School Reform program. The RFA is expected to be out in November. More detailed information will be provided in a forthcoming communication to superintendents.

## **Title I, Part G**

### **ADVANCED PLACEMENT PROGRAMS**

*NCLB* Title I, Part G provides authority for two types of Advanced Placement (AP) grant programs: (1) AP Test Fee reimbursement funds for AP tests taken by economically disadvantaged students; and (2) another grant to support complementary access to AP programs for economically disadvantaged students. The CDE has applied for both federal grants and is awaiting review and determination of award.

## **Title II, Part A**

### **TEACHER and PRINCIPAL TRAINING**

*NCLB* brings to California \$315 million in funding to ensure that every child has a highly qualified teacher. For districts this is a significant increase over the amount of money granted to our state under Eisenhower and federal Class Size Reduction programs. A primary focus for the use of funds is effective professional development, but districts have a variety of options in how their allocations are spent.

One requirement is the development of an LEA plan for professional development, based on a needs assessment. The five-year plan should contain annual measurable objectives for ensuring every teacher is highly qualified in five years. Further details of this requirement will be delineated in a forthcoming communication to superintendents from CDE.

## **Title II, Part D**

### **ENHANCING EDUCATION THROUGH TECHNOLOGY**

The Enhancing Education Through Technology Act will provide funding to California for the primary purpose of improving student academic achievement through the use of technology in schools. Other goals for the program include assisting all students in becoming technologically literate by the end of the eighth grade and encouraging the effective integration of technology with teacher training and curriculum development to establish successful research-based instructional methods.

Half of the local assistance funding, approximately \$41 million for California, is to be distributed via formula-funded grants to districts based upon their proportionate share of Title I. The other half of the local assistance, another \$41 million, is to be distributed via competitive grants. For both types of grants, a minimum of 25% of the funding must be spent on professional development related to education technology. Both grants are currently on hold pending the passage of authorizing state legislation. Senate Bill 192 has been introduced as the vehicle for this authorization, and districts interested in applying for the competitive Education Technology Grants may wish to follow the progress of SB 192.

Districts should be aware, however, that for both formula-funded and competitive grants they must have a CDE-approved district technology plan that meets federal requirements. Details about the technology plan submission process will be mailed to eligible districts in early September.



## **Title III**

# **LANGUAGE INSTRUCTION for LEP and IMMIGRANT STUDENTS**

Most of you know that Title III is the new federal program for limited-English proficient (LEP) and immigrant students. The title is organized into two local assistance streams: sub-grants for LEP students, referred to as English learners in California, and sub-grants for eligible immigrant students. Title III funds may be used to support a wide array of instructional and support services for LEP and immigrant students and their families. The funds are to be directed to activities that assist these pupils to learn English, and to meet grade level and graduation standards. Eligible LEAs include school districts, county offices, and direct-funded charter schools.

### **Changes in Funding Procedures**

Events at state and federal levels require CDE to revise Title III funding procedures and schedule for 2002-03. As of this date, the Legislature and Governor have not approved the state budget for fiscal year 2002-03. Until the budget is approved, the CDE is not authorized by law to award state or federal funds. While it is impossible to know when the budget process will be completed, deliberations could continue for some time. As soon as the budget is approved, CDE is positioned to issue immediately the Title III sub-grant awards for LEP and immigrant students.

CDE recently received from USDE a letter and grant award for Title III. The amount of the award had been reduced from \$115 million to approximately \$53 million, less than half the expected amount of award. According to USDE, some states had reported a higher-than-expected number of LEP students and, consequently, USDE will wait to award remaining funds after reviewing the 2000 U.S. Census data this October. At this time, it is not possible to estimate the total funding that will be awarded to California.

This action presents various challenges to state education agencies, due largely to the fact that there is a \$10,000 floor for awarding grants and many LEAs that were anticipating receiving these funds will not be able to receive awards until the final allotment is determined. We join you in the concern that these changes are certain to inconvenience many participating LEAs. Under separate cover, the CDE is sending LEAs a letter describing the approach we will take to award sub-grants as soon as the state budget is signed into law. Our course of action will affect the fewest number of participating LEAs, and those that are affected will experience only modest disruptions in program services.

The CDE will update LEAs as events warrant. Additional information regarding Title III is available by referring to the CDE's Title III Web site, <http://www.cde.ca.gov/el/title3/> or by calling the Language Policy and Leadership Office at (916) 319-0845.

## **Title IV, Part A**

### **SAFE and DRUG FREE SCHOOLS**

The Department of Alcohol and Drug Prevention (DADP) and the CDE have joint responsibility for administering the NCLB, Title IV, Safe and Drug Free Schools Act. The DADP has released a competitive request for applications (RFA) to the county Alcohol and Drug Administrators. A letter has been sent to district and county superintendents in order to explain and enhance the school, school district, and community planning needed to maximize effective RFA development. The RFA is due September 20, 2002.

At this writing the RFA application and attachments are posted on the DADP Web site:  
[http://www.adp.state.ca.us/prevention/pdf/SDFSC\\_RFA.pdf](http://www.adp.state.ca.us/prevention/pdf/SDFSC_RFA.pdf)

## **Title IV Part B**

### **21<sup>st</sup> CENTURY COMMUNITY LEARNING CENTERS**

The *No Child Left Behind Act* provides \$39.9 million for the California 21st Century Community Learning Centers (CCLC) Program. This new state-administered program offers five-year grant funding to establish or expand community learning centers that provide students with enrichment opportunities and additional services necessary to help the students meet state and local standards in core content areas. A Request For Applications (RFA), an informational digital Web cast, CCLC funding structure, funding priorities, and programmatic requirements are available at the following the CDE web site, <http://www.cde.ca.gov/afterschool>

## **Title V, Part A**

### **INNOVATIVE PROGRAMS**

There are very few changes in this provision of *NCLB*. The major change is that it is no longer Title VI, but Title V. It continues the flexibility for local educational agencies to use the funds based on local needs. All of the previous uses of the funds are retained and there are new allowable funding possibilities. These include: professional development, Title I supplemental services, public school choice, community services programs, consumer education, academic intervention programs and service learning.

## **Title V, Part B**

### **CHARTER SCHOOLS**

The federal Public Charter School Grant Program (PCSGP) funds the creation of new public charter schools, and the sharing of best practices developed within charter schools with other

charter and traditional public schools. *NCLB* makes some changes to the PCSGP that directly impact LEAs.

Specifically, *NCLB* removes the current requirement that charter development groups and charter schools co-apply with an LEA for a PCSGP award. It also disallows LEAs from deducting the standard Indirect Cost Rate from PCSGP award funds received by charter schools authorized by the LEA. However, *NCLB* does require PCSGP applicants to give their authorizing LEA timely notice and a copy of their grant proposal, prior to applying for a PCSGP award, and allows PCSGP award recipients to acquire administrative and other services from their authorizing LEA for mutually agreed upon fees.

At the national level, *NCLB* provides some support for charter schools seeking financial assistance for facilities through a formula grant program and a credit enhancement program. For more information about the PCSGP, contact the Charter Schools Office at (916) 322-6029 or visit the CDE Web site at: <http://www.cde.ca.gov/charter>

## **Title VI, Part A** **FLEXIBILITY and ACCOUNTABILITY**

The provision in *NCLB* that continues to give maximum funding flexibility for Title I schools is the schoolwide program. The threshold for participation has been lowered to a 40 percent poverty rate. Information on becoming a schoolwide school can be found at the CDE web site, <http://www.cde.ca.gov/iasa/schoolwide>

There are additional flexibility provisions outside of Title I that are not contingent on receipt of Title I funds. Transferability, authorized under Title VI, allows districts that have not been identified for improvement to transfer up to 50 percent of funds among the following programs or into—but *not out of*— Title I, Part A:

- Title II, Part A – Teacher Quality
- Title II, Part D – Enhancing Education Through Technology
- Title IV, Part A – Safe and Drug Free
- Title V, Part A – Innovative Programs

Districts identified for improvement may only transfer 30 percent, and funds must be transferred into school improvement activities. Districts do not need permission to transfer these funds, but they must give CDE 30 days prior notice of transfer. They can do so by electronically revising page 12 of their Consolidated Application. Districts also have 30 days after a transfer in which to modify and submit their Local Educational Achievement Plan to reflect such a transfer. All program requirements still apply. Transferred funds are subject to the rules of the program *to which they are transferred*.

The Local Flexibility Demonstration Program allows districts to consolidate the entire amounts of each of the above-mentioned funds. It requires a 5-year performance agreement with the U. S.

Secretary of Education that has substantial promise of helping the district meet the State's definition of adequate yearly progress, advancing the education priorities of the district, meeting the general purposes of the programs included, improving student achievement, and narrowing the achievement gaps among the subgroups. None of the specific program requirements would apply, and participating districts are limited to a four percent cap on local administrative costs. Unlike Transferability, districts must apply to the USDE to participate in Local Flex Demonstration Program. The deadline for applying to participate in Local Flex is September 17, 2002.

For additional information on transferability and the Local Flexibility Demonstration Program, please visit the USDE web site at: <http://www.ed.gov/flexibility/>

## **Title VI, Part B**

### **RURAL EDUCATION INITIATIVE**

Beginning in 2002-2003, there are two new grants for rural school districts. Eligible districts may only participate in one of these grants. The grant awards for the Small, Rural School Program will be sent directly to eligible school districts from the USDE. These grant awards are scheduled to be sent to eligible school districts in the next 30 days. CDE recently received from USDE a letter and grant award of \$2.7 million for the Rural, Low-Income School Program. Sub-grants will be allocated to eligible school districts that applied through the Consolidated Application. As previously mentioned, the CDE is not authorized by law to award state or federal funds until a budget is approved. Information about the Rural Education Initiatives and a list of eligible school districts can be located at: <http://www.cde.ca.gov/ccpdiv/>

## **Title VII**

### **INDIAN, NATIVE HAWAIIAN, and ALASKA NATIVE EDUCATION**

For the most current information regarding this program, please contact Andy Andreoli, Manager, Policy and Programs Coordination Unit, at (916) 319-0621.

## **Title IX, Part E**

### **PRIVATE SCHOOLS**

In order to ensure equitable services to eligible students attending private school, Title IX, Section 9501 of *NCLB* requires that participating public school districts must contact private schools and consult with the private schools to determine if the private school wants to be part of the districts' Title I-V applications, including:

- Title I, Part A - Private school students who are academically "at risk" are eligible to receive services through Title I, Part A, provided they reside in a Title I participating public school attendance area.
- Title I, Part B, Reading First Program and Even Start Literacy Program
- Title I, Part C, Education of Migratory Students
- Title II, Part A - Teacher and Principal Training and Recruiting Fund
- Title II, Part B, Mathematics and Science Partnerships
- Title II, Part D, Enhancing Education Through Technology
- Title III, Part A, English Language Acquisition, Language Enhancement, and Academic Achievement Act
- Title IV, Part A, Subpart 1, Safe and Drug-Free Schools and Communities (including set-aside funding for the Governor)
- Title IV, Part A, Subpart 2, Community Service Grant for Suspended or Expelled Youth
- Title IV, Part B, 21st Century Community Learning Centers
- Title V, Part A, Innovative Programs
- Title V, Part D, Fund for the Improvement of Education, Subpart 3, Partnerships in Character.
- Title V, Part D, Fund for the Improvement of Education, Subpart 6, Gifted and Talented Students.

To ensure timely and meaningful consultation, the consultation must include discussions identifying the needs of private school students, the services to be provided, where the services will be provided, and how the services will be assessed. The law requires each district to provide to the state a written affirmation signed by the appropriate private school officials verifying that the required consultation has occurred. For additional information, please contact Marleen Allin of the Elementary Education Office at (916) 319-0232.

## **Title IX, Part E, Subpart 2, Section 9532**

### **UNSAFE SCHOOL CHOICE OPTION**

The law requires that every state adopt and implement a policy that allows students who are victims of violent crimes on or near school grounds or all children in a “persistently dangerous” school to transfer to another public school. Having such a policy is a condition of receiving *NCLB* funding, and the State Board adopted a “persistently dangerous school” policy at its meeting on May 30, 2002. This policy is posted at <http://www.cde.ca.gov/pr/nclb/unsafeschl.htm> with definitions of terms and legal references.

However, on July 28, 2002, the USDE issued draft guidance on the “unsafe school option.” Clarification is currently being sought from the USDE as to whether California’s approach is sufficient. An update will be provided as soon as we receive a response. Meanwhile, for additional information, please contact the Education Support Systems Division, (916) 324-5709.

## **Title X, Part C**

### **HOMELESS EDUCATION**

There are a number of new provisions in McKinney-Vento Homeless Education designed to improve academic achievement of children and youth who are homeless. Districts must:

1. Provide transportation to ensure that students who are homeless can continue their education in the school they were attending when they were in a permanent dwelling or the school they last attended, *if that is the choice of the parent or guardian*. They may remain in that school for the duration of their homelessness or if they become homeless during the academic year, for the remainder of the academic year.
2. Provide transportation to ensure that students who are homeless can continue their education in the school they had been attending before becoming homeless, or the school they last attended, at the request of the parent or guardian.
3. Enroll students immediately who are homeless, even if they do not have the papers normally required for enrollment.
4. Appoint a “liaison” or contact person for students who are homeless. Some of the duties of the liaison are to ensure access to education and support services, identify students in homeless situation, and disseminate notice of educational rights.

### **Miscellaneous Provisions:**

### **DISTRICT SET-ASIDES**

*NCLB* requires districts to reserve 1% for parent involvement, 5%-10% for professional development, and funds that are needed for homeless students. There are also allowable reservations (but not required), such as preschool and summer school. While it is not a set-aside in the strict interpretation of the term, districts are also required to spend an amount equal to 20 percent of their Title I allocation to pay for public school choice transportation and supplemental services, if the demand warrants such an amount. Any portion of the 20 percent not needed for either or both activities may be expended for other permitted purposes.

Also, a *school* (not district) that has been identified for improvement is required to set aside 10% of the allocation it receives from the district for additional professional development.

### **PAST and FUTURE CORRESPONDENCE FROM CDE about *NCLB***

Superintendents who would like to review or catch up on past *NCLB* correspondence from CDE may refer to CDE’s web site: <http://www.cde.ca.gov/pr/nclb>

Once at this site, scroll down to “Correspondence,” and click on any of the following:

Title I Staff Requirements (January 16, 2002)  
General Policies (April 11, 2002)  
Parental Notification Requirements (April 11, 2002)

Private Schools and NCLB (May 10, 2002)  
Program Improvement (May 30, 2002)  
Homeless Education (May 31, 2002)  
Supplemental Educational Services (May 31, 2002)

**About past correspondence:** Please note that it was necessary for us to clarify information we had provided in the Program Improvement letter of May 30 and the Supplemental Services letter of May 31, due mainly to information received from the federal government during recent weeks. Consequently, revised versions of these letters appear on the above Web site. Please refer to these Web site versions instead of any prior mailed copies.